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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,673	06/16/2000	Alan Fisher	0064738-0050	6577

7590 06/25/2002
Barry Evans Esq
Kramer Levin Naftalis & Frankel LLP
919 Third Avenue
New York, NY 10022

EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 06/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/594673

Applicant(s)

FUSHFR

Examiner

W E BMAN

Group Art Unit

1617

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Statu

☒ Responsive to communication(s) filed on 3/13/02

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1 - 109 is/are pending in the application.

Of the above claim(s) 1-21, 25-86, 89-109 is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☒ Claim(s) 22-24, 87-88 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claim(s) are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____

☐ Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Art Unit: 1617

Applicant's election with traverse of cylindrical graphite fibrils of structure $[C_nH_L]$ $[R^1-R]_m$ in Paper No. 9 is acknowledged. The traversal is on the ground(s) that cylindrical graphite fibrils and nanotubes and Fishtail Fibrils are synonymous. This is not found persuasive because Fibrils need not be nanomeric and Fishtail Fibrils are structurally different from Fibrils, applicants' argument that, for an election of species, independence and distinctness must be shown. ON the contrary, to overcome an election of species, applicants need merely state on the record that the species are equivalent. However, art found against one species will then be applicable to all.

The requirement is still deemed proper and is therefore made FINAL.

The examiner notes that claim 79, indicated in the restriction requirement, paper #3, Filed 12/6/00, as being a member of Group I, ~~is in fact a member of Group I~~, is in fact a member of Group III.

Claims 22-24, 87, 88 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for $-R^1-R = -CH_2-NH_2$, does not reasonably provide enablement for any other R^1-R . The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. On page 26 applicants disclose synthesis of $-CH_2-NH_2$. However, no other synthesis is specified for the claimed $R^1 =$ alkyl, cycloalkyl, aralkyl or cycloaryl.

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (703) 308-4432. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie can be reached on (703) 308-0570. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Webman
June 6, 2002



EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500